

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

HALLEEN CHEVROLET, INC.)	CASE NO. 1:10-cv-2097
ROSE CHEVROLET, INC.)	CASE NO. 1:10-cv-2140
ANDY CHEVROLET CO.)	CASE NO. 1:10-cv-2153
dba SIMS CHEVROLET, INC.)	
)	JUDGE SOLOMON OLIVER, JR.
Petitioners-Covered Dealerships)	
)	
v.)	<u>REQUEST FOR DISMISSAL</u>
)	<u>PURSUANT TO COURT ORDER</u>
GENERAL MOTORS, LLC)	
)	
Respondent-Covered Manufacturer)	

Now come the Petitioners Halleen Chevrolet, Inc., Rose Chevrolet, Inc., and Sims Chevrolet, Inc. and hereby request a **NON**-voluntary dismissal of the three (3) separate matters captioned above. As this Court is aware, Petitioners moved for a stay to prevent the Southern District Bankruptcy Court of New York from proceeding with Respondent GM's collaterally filed motion to enforce and to dismiss the three (3) currently pending matters. [Doc. Nos. 5, 9, and 16]. This Honorable Court, relying primarily on the Bankruptcy Court's prior decision in the Rally Auto Group¹ matter, allowed Respondent General Motors LLC's motion to enforce and to dismiss these matters to proceed with an expedited briefing schedule and objection hearing in the Bankruptcy Court of the Southern District of New York. [Doc. No. 17].

¹ *In re Motors Liquidation Company*, Chapter 11 Case No. 09-50026 (REG), orders of October 12, 2010.

Petitioners filed an objection in the Bankruptcy Court of the Southern District of New York identifying the legal and factual issues in dispute. (See Ex. 1). However, a stipulated journal entry was submitted to the Bankruptcy Court which (1) noted that the Bankruptcy Court of the Southern District of New York would decide the same way it ruled in the Rally Auto Group decision and (2) stay any enforcement of the stipulated journal entry, upon these Ohio matters, until a decision by the New York Southern District Court's Judge Patterson, who was reviewing the Rally Auto Group's stay, injunction, and motion for an expedited appeal. (See Ex. 2). On October 29, 2010, Judge Patterson issued his decision, which did **NOT** continue his preliminary injunction and stay. (See Ex. 3). Thus, the Bankruptcy Court's stipulated order (Ex. 3) is now in effect and the Petitioners are required to dismiss their Ohio applications within three (3) business days.

Petitioners disagree with the Bankruptcy Court and/or the District Court Judge Patterson's orders. Both may be void or voidable based upon lack of personal and/or subject matter jurisdiction. Both fail to recognize or apply the Constitutional rights and protections of due process and other legal arguments raised. (See Ex. 1). Additionally, the Rally Auto Group matter appeal is still pending and the time for Petitioners to file a notice of appeal has not expired.

In order to adhere to judicial deference to the pending New York orders (Exs. 2 and 3), while the Rally appeal continues and/or the Ohio cases institute an appeal, these matters are being dismissed, **over the Petitioners' objections**, in order to act in good faith, comply with a collateral court's order, and reasonably proceed through the judicial system's appellate process.

Therefore, Petitioners, pursuant to various New York Court orders, but not waiving any of their legal rights and factual objections, hereby request a dismissal, subject to further appellate review, reinstatement, subsequent proceedings, or any other legal or equitable remedy another court may deem just and fair.

Respectfully submitted,

/s/ Christopher M. DeVito

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Halleen Chevrolet, Inc., Rose Chevrolet, Inc. and

Andy Chevrolet Co. dba Sims Chevrolet, Inc.

CERTIFICATE OF SERVICE

I hereby certify that on November 3, 2010, a copy of the foregoing **Request for Dismissal Pursuant to Court Order** was served via the Court's ECM/ECF system upon counsel for Respondent-Covered Manufacturer General Motors, LLC's respective attorneys of record: Jeffrey J. Jones, Esq., Douglas M. Mansfield, Esq., and J. Todd Kennard, Esq., Jones, Day, Reavis & Pogue, 41 South High Street, Suite 1900, Columbus, Ohio 43215.

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